

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

PRIME HYDRATION LLC,

Plaintiff,

v.

RYAN GARCIA,

Defendant.

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Civil Action No.: 3:24-cv-1260

Jury Trial Demanded

**ORIGINAL COMPLAINT FOR (1) DEFAMATION; (2) TRADE LIBEL;
(3) VIOLATIONS OF LANHAM ACT; (4) UNFAIR COMPETITION;
AND (5) UNJUST ENRICHMENT**

Plaintiff Prime Hydration LLC (“Prime”) brings this action against Ryan Garcia (“Defendant” or “Garcia”) and alleges as follows:

1. Prime is a beloved world-renown brand that develops hydration drinks, energy drinks, and hydration sticks. Prime seeks to fill the void in the market where great taste meets function. Customers love Prime’s bold, thirst-quenching flavors because they refresh, replenish, and refuel. Prime is one of the fastest growing beverage brands in history, generating over 1.2 billion dollars in revenue in 2023 alone.

2. Ryan Garcia is, on information and belief, an American professional boxer. He has over 20 million followers across his social media channels. Garcia has a history of stirring up controversy to promote his fights and personal brand, including by attacking other high-profile individuals and brands. Although Garcia at one time was on good terms with Prime, as Prime grew he decided to embark on a campaign of spreading lies about Prime, its hydration drink and one of Prime’s owners, Logan Paul.

3. Garcia has engaged in calculated online “rants” falsely claiming and without support that Prime’s hydration drink contains “horrible chemicals,” will “kill your guys’s brains,” “mess up your guys’s liver,” and will “hurt you big time.” He goes even further claiming that Prime is putting “your kid . . . in danger” if they “keep drinking” it. According to Garcia, Prime’s drinks contain “poison” such as “cyanide” as well as “ostarine” and is “killing you.” Garcia claims that “little kids really getting hurt” from drinking Prime, including by having “seizures.”

4. Not content with his fabrications about the contents of Prime’s products, Garcia smears Prime’s business and team. He falsely claims that Prime and its team “work for the devil,” have “raped” and “burned” children, have an “agenda” to “poison children” and engage in “human trafficking”—all while knowing that such wild accusations lack any modicum of support.

5. None of Garcia’s assertions are true, and he knows it. He provides no evidence to substantiate any of his claims. Even the most cursory investigation shows that Prime’s products do not contain poison, do not kill brains or kids, and that its team does not engage in any of the horrific behaviors and dreadful crimes that Garcia asserts they do.

6. Garcia has admitted that he knows his accusations are false, stating that he carefully planned his attacks on Prime, months in advance, to promote himself and to hurt Prime. His goal, which he revealed during a podcast interview in Florida, is to “destroy Prime little by little” and to “start my own drink company.”¹ His plan is to “troll” Prime “so bad” that “everything is off their shelves.”²

7. Despite knowing his accusations are false, Garcia—out of malice and a desire for his own financial gain—continues to insist that he has “only said true things,”³ “will not let this

¹ <https://www.youtube.com/watch?v=LXtXcYUIO0M> (at 00:47:10; 00:47:45).

² Id. at (at 00:47:45; 00:49:35).

³ <https://youtu.be/KANbgQVVH08?si=V3piZBoFoFDZ8odi> (at 00:00:59).

die down,”⁴ and will “talk about it every day” if he “ha[s] to.”⁵ He admits that although he “used to like Logan [Paul, one of Prime’s owners],”⁶ he now . . . “do[esn’t] care about”⁷ them or being truthful when describing Prime. Garcia has even gone so far as to provoke Prime asserting that he knows Prime “can . . . sue me,” while defiantly stating “Do I care? No.”⁸

8. Garcia’s false statements have very real consequences. They have and continue to harm Prime’s brand and deceive consumers in the market about Prime’s products. Indeed, Garcia has bragged about how he has cost Prime “millions”⁹ in revenue and stated his intent to “keep on bashing them, every fight.”¹⁰

9. While, Prime welcomes feedback and has no problem with legitimate criticism or expressions of pure opinion, Garcia has gone far over the line. He is intentionally using his platform to make false and defamatory statements to damage Prime while promoting his own brand and business. This is morally unacceptable, entirely unlawful and must stop.

PARTIES

10. Plaintiff is a Delaware Limited Liability Corporation having a principal place of business in Louisville, Kentucky.

11. On information and belief, Defendant Ryan Garcia is an individual who resides at 3130 N. Harwood St., Dallas, Texas. He has publicly stated that he resides in Dallas, and news

⁴ *Id.* (at 00:02:37).

⁵ *Id.* (at 00:02:43).

⁶ *Id.* (at 00:01:04).

⁷ *Id.* (at 00:01:13).

⁸ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:01:14).

⁹ <https://www.youtube.com/watch?v=TD5DbLtAmog> at (00:00:05).

¹⁰ <https://www.youtube.com/watch?v=LXtXcYUIO0M> (at 00:37:22).

reports indicate that he trains for boxing matches in Dallas.^{11,12} In one of his defamatory videos, for instance, Garcia states that he has been training and displays a training glove.¹³ On information and belief, Garcia has published multiple defamatory and false statements about Prime in videos Garcia livestreamed and recorded from his Dallas residence. Buildings visible in the background of these videos are buildings in Dallas.¹⁴

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332 and 1338(a); as well as 28 U.S.C. § 1367 regarding certain state law claims under the laws of Texas.

13. This Court has jurisdiction over Defendant Garcia based on 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between the parties, and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and cost.

14. The Court also has supplemental jurisdiction over the claims arising under the laws of the State of Texas, pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal subject-matter claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

15. This Court has personal jurisdiction over Defendant because Defendant resides in this District and conducts business within this District.

16. This Court has specific jurisdiction over the Defendant because Prime's claims arise from harm sustained from the State of Texas. Defendant has engaged in purposeful

¹¹ "Moving to Dallas []" – Ryan Garcia via X (f/k/a Twitter) <https://x.com/RyanGarcia/status/1672429667813560320?lang=en>. (June 23, 2023).

¹² "Garcia . . . underwent a battery of tests in Dallas, where he held training camp . . . De La Hoya added, 'but I flew over to Dallas the other day and he looks great.'" https://www.espn.com/boxing/story/_/id/39967340/how-chaotic-build-devin-haney-ryan-garcia-boxing-fight.

¹³ <https://youtu.be/KANbgQVVH08?si=V3piZBoFoFDZ8odi> (at 00:00:41).

¹⁴ <https://www.youtube.com/watch?v=CI9fCBUMd48> (at 00:04:12).

affirmative activity directed from the State of Texas by, on information and belief, livestreaming, distributing and posting at least some of the accused videos.

17. This Court also has general jurisdiction over the Defendant because Defendant has engaged in continuous and systematic activity within the State of Texas by, on information and belief, regularly livestreaming, distributing and posting at least some of the accused videos from the State of Texas.

18. Venue is proper in this District under 28 U.S.C. §§ 1391 because, among other bases, Defendant resides in this District. Further, on information and belief, Defendant has engaged in the alleged conduct in this District.

19. On information and belief, statements made by Defendant that are material to this Complaint originated from and/or were made from, recorded within and published from this District. Defendant's acts have caused injury to Plaintiff within this District and continue to cause injury to Plaintiff within this District.

20. Defendant expects or should reasonably expect his actions to have consequences within this District as Defendant derives substantial revenue within this District from his activities in interstate commerce emanating from this District.

FACTUAL ALLEGATIONS

A. Prime Develops Great Tasting and Functional Market Leading Drinks.

21. Prime develops hydration drinks, energy drinks, and hydration sticks.

22. Created to fill the void where great taste meets function, Prime's hydration drinks offer a variety of bold and thirst-quenching flavors. These flavors include Blue Raspberry, Cherry Freeze, Ice Pop, Lemon Lime, Lemonade, Meta Moon, Strawberry Banana, Strawberry Watermelon, Tropical Punch, and others.



23. Prime’s hydration drinks help people refresh, replenish, and refuel. They contain coconut water, electrolytes, antioxidants, B Vitamins, and other beneficial ingredients. Prime’s hydration drinks are meticulously designed and developed to boost people’s performance in any endeavor.

24. Prime’s dedication to taste and function has catapulted it to become one of the fastest growing beverage brands of all time. Its growth and popularity are a testament to its great taste, function, and the good will that consumers associate with Prime and the PRIME brand.

B. Ryan Garcia is a Boxer Who Promotes Himself Through Controversy.

25. Ryan Garcia is, on information and belief, an American boxer. He has gained notoriety through amassing numerous wins, and as a result of which he held the World Boxing Council (“WBC”) interim lightweight title in 2021.

26. Garcia has stated that his business model and goal is to “use[] social media to gain leverage and then give the fans what they want[]” by drumming up controversy on the Internet.¹⁵

¹⁵ <https://www.fox4news.com/sports/ryan-garcia-boxing-mental-health>.

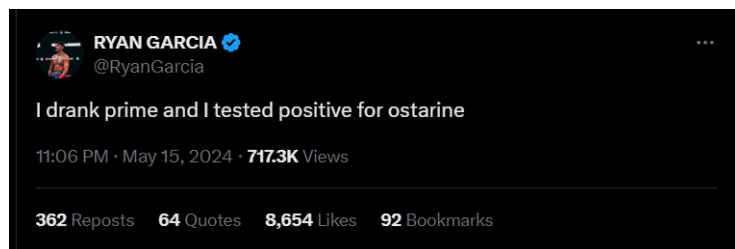
27. As such, Garcia has been involved in multiple public controversies. For example, on Mother's Day in 2024, in an attempt to promote and arrange another of his fights, he bragged that he "slept with" another boxer's, George Kanbosos Jr., "fiancée."¹⁶ Garcia removed the offensive post after it was universally panned including International Boxing Hall of Fame 2020 Inductee Lou DiBella referring to Garcia as "...a lying, antagonizing, cheating, derelict piece of influencer shit..."¹⁷

C. Garcia is Defaming Prime to Promote His Fights and His Personal Brand.

28. Garcia's latest ploy to boost his exposure is to spread lies about Prime, its products and its team. He has been doing so consistently for months and his conduct has escalated.

29. Garcia has falsely claimed, without any basis or support, that Prime's hydration products contain "horrible chemicals"¹⁸ and "poison," including "cyanide."¹⁹

30. As recently as May 15, 2024, Garcia falsely implicated PRIME implying that he "tested positive for ostarine,"²⁰ a performance enhancing drug banned in professional boxing, because he "drank [P]rime."²¹



¹⁶ <https://www.marca.com/en/boxing/2024/05/14/6642d971e2704ed0178b456d.html>.

¹⁷ <https://x.com/loudibella/status/1789840940493897958>.

¹⁸ <https://www.youtube.com/watch?v=LXtXcYUI00M> (at 00:37:34).

¹⁹ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:03:55).

²⁰ After his April 20, 2024 match for the WBC super lightweight title, Garcia tested positive for ostarine, a performance-enhancing drug. <https://x.com/RyanGarcia/status/1790956977994043823>.

²¹ <https://x.com/RyanGarcia/status/1790956977994043823>.

31. Garcia has also asserted that Prime’s hydration drink causes “seizures” in kids, puts kids “in danger if they keep drinking”²² it, and that “little kids” who drink Prime are “really getting hurt[.]”²³

32. Garcia even goes so far as to assert that he has “real proof” of Prime hydration drinks causing seizures in children, based on “a lot of nurses are hitting me up, speaking to me, saying that they have seen firsthand what this drink does to kids.”^{24,25}



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33. According to Garcia, the “horrible chemicals” in Prime hydration drinks are “gonna kill your guys’s brains” and “mess up your guys’s liver.”²⁸ Prime’s hydration drinks, Garcia claims, will “hurt you big time,”²⁹ and are “killing you.” None of this is true.



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²² <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:01:06; 00:02:06).

²³ <https://www.youtube.com/watch?v=KANbgQVVH08> (at 00:00:56).

²⁴ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:02:01).

²⁵ <https://www.youtube.com/watch?v=LXtXcYUI00M> (at 00:48:12).

²⁶ <https://www.youtube.com/watch?v=KANbgQVVH08> (at 00:00:13).

²⁷ <https://www.youtube.com/watch?v=KANbgQVVH08> (at 00:02:31).

²⁸ <https://www.youtube.com/watch?v=KANbgQVVH08> (at 00:00:24).

²⁹ <https://www.youtube.com/watch?v=KANbgQVVH08> (at 00:01:36).

³⁰ <https://x.com/RyanGarcia/status/1767638358417682827>.

34. In addition to his knowingly false statements about Prime's products and ingredients, he is also spreading false statements about Prime's founders and personnel. He claims, for instance, that the Prime team is operating a "human trafficking" ring that has an "agenda" to "poison children."³¹

35. He has gone so far as to assert that Prime's team has "tied [children] up," "raped" children," and "burned them." Garcia further outrageously asserts that Prime's team are "devil worshipers" who "work" with Satan.^{32,33}

D. Defendant Makes His Statements With Malice Knowing They Are False.

36. Garcia knows his statements are false, but maliciously espouses them anyway. It is obvious that Prime does not contain "cyanide" or other "poison." Garcia cannot possibly believe that drinking Prime caused him to test positive for ostarine, yet falsely claims so. He has no basis to claim that Prime kills brains, messes up livers, or hurts people. His statements about having proof from nurses that Prime causes seizures in children are pure fabrication.

37. Garcia has in fact admitted that his attacks on Prime are carefully crafted and planned, months in advance, to cultivate an image that he is wild as part of his fighter persona.³⁴ This demonstrates his intent to harm Prime through statements that he is fully aware are not true. Meanwhile, his audience and other consumers believe them as he intends.

38. Just several weeks ago, on a popular podcast recorded in Florida, Garcia admitted his desire and goal is to "destroy Prime little by little." His objective is to "troll" Prime so that

³¹ <https://www.youtube.com/watch?v=XrzTGqZeCMg> (00:34:22 - 00:35:30; 00:39:09).

³² <https://www.youtube.com/watch?v=KANbgQVVH08>

³³ <https://www.youtube.com/watch?v=XrzTGqZeCMg> (00:34:22 - 00:35:30 00:39:09).

³⁴ <https://www.youtube.com/watch?v=LXtXcYUIO0M>.

“everything is off their shelves.” After which, Garcia intends to “start my own drink company,”³⁵ Presumably to compete with Prime.

39. Despite his knowledge of the falsity of these defamatory statements, Garcia insists that they are true in an effort to spread his lies throughout his 20 million-plus online followers. He has stated “I’ve only said true things”³⁶ with respect to Prime, and “It’s the truth”³⁷ when conducting his defamatory, deceptive, and misleading rants about Prime. He has even claimed to have “proof” that he will present to “Congress”³⁸ about his statements, despite their obvious falsehood. He also claimed to have proof that Prime causes seizures in children, based on communications from nurses—another fabrication.³⁹

40. On March 14, 2024, Prime sent Garcia a letter demanding that he stop his defamatory conduct and prevent it from continuing by removing the posts.⁴⁰ He has not. On the contrary, he doubled down and continues to make false statements, including his latest about Prime containing the performance enhancing drug ostarine.

41. Garcia expects and knows that his defamation is harming Prime, yet he chooses to continue spreading lies. He has said, for instance, “I will not let this die down”⁴¹ and “if I have to talk about it every day, I will.”⁴²

42. Garcia bragged about costing Prime “millions of dollars.”⁴³ By his own admission, his intent was and continues to be to lower Prime’s top line revenue. To accomplish his objective,

³⁵ <https://www.youtube.com/watch?v=LXtXcYUIO0M> (00:48:00).

³⁶ <https://www.youtube.com/watch?v=KANbgQVVH08> (00:00:57).

³⁷ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:01:07).

³⁸ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:02:01; 00:13:35).

³⁹ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:02:01).

⁴⁰ A true and correct copy of this letter is attached as Exhibit A.

⁴¹ <https://youtu.be/KANbgQVVH08?si=V3piZBoFoFDZ8odi> (at 00:02:37).

⁴² *Id.* (at 00:02:43).

⁴³ <https://www.youtube.com/watch?v=TD5DbLtAmog> at (00:00:05).

he intends “to keep on bashing them.”⁴⁴ Garcia knows exactly what he is doing. By “trolling”⁴⁵ Prime with false statements, he boosts his own notoriety while harming Prime’s goodwill, reputation, and revenue – all while deceiving consumers as to Prime’s hydration drinks and other products.

43. He has further stated, “Can they sue me? Yes. Do I care? No.”⁴⁶ According to Garcia, while he “used to like” the Prime team, and “thought they were cool,” “now . . . I don’t care about you[.]”⁴⁷

E. Defendant Defamed Prime Intentionally To Boost His Own Notoriety For Monetary Gain.

44. Garcia is no stranger to brand promotion, as he has cultivated more than 20 million online followers. Further, he previously was a spokesperson for a competitor of Prime.⁴⁸

45. On information and belief, Garcia is making his defamatory statements about Prime to boost his own notoriety riding upon Prime’s popularity and to obtain ‘clicks’ or views of his own social media accounts. He is attempting to generate controversy through his purported “revelations” about Prime and its products to boost engagement with his online social media channels and further monetize his personal brand. Garcia is further defaming Prime, on information and belief, to sell tickets to his fights.

46. Indeed, on a boxing podcast recorded in Palm Beach, Florida, Garcia admitted that in anticipation of his April 20, 2024 fight against Devin Haney, he orchestrated a monthslong plan to generate controversy and public interest around his fight by making false statements about Prime.⁴⁹

⁴⁴ <https://www.youtube.com/watch?v=LXtXcYUI00M> at (00:37:15).

⁴⁵ <https://www.tiktok.com/@meechski/video/7361213641493843243>. (00:25:00).

⁴⁶ <https://www.youtube.com/watch?v=a8sFmmGjCM8&t=361s> (at 00:01:15).

⁴⁷ <https://www.youtube.com/watch?v=KANbgQVVH08> (00:01:05)

⁴⁸ <https://www.youtube.com/watch?v=9EdXrp81iLw>.

⁴⁹ <https://www.youtube.com/watch?v=LXtXcYUI00M> (at 00:03:45).

F. Defendant's Malicious Lies Continue to Damage Prime.

47. Although Garcia's statements are fabrications, their effect is very real and damaging to Prime.

48. Garcia's 20 million-plus online followers as well as many millions of other consumers who hear his statements are, on information and belief, deceived as to Prime's products and its team.

49. This has and will continue to cause immense damage to the goodwill that consumers have towards Prime and its PRIME brand, which is critical to Prime's continued growth. Again, this is Garcia's intent—he knows damage to Prime's business is the consequence of his defamation—and he has admitted as much through his statements: "I advise anyone with stock in Prime to get out before it's to *[sic]* late."⁵⁰

50. Garcia's false and deceptive statements are damaging Prime's business to the order of millions of dollars, the exact amount of which Prime intends to prove in this action.

COUNT I: DEFAMATION

51. Prime incorporates by reference as though fully set forth herein the allegations of all the foregoing paragraphs.

52. Defendant published false statements about Prime and its products in text, video, and audio-based social media channels, including X (f/k/a Twitter), Instagram, TikTok, and YouTube.

53. Defendant's false statements include statements that Prime contains "horrible chemicals" and "poison," including "cyanide." Defendant also stated that he "tested positive for ostarine," a performance enhancing drug, after he "drank [P]rime." Defendant further stated that

⁵⁰ <https://twitter.com/RyanGarcia/status/1767692340502630646>.

Prime hydration drinks cause “seizures” in children, puts children “in danger if they keep drinking” it, and that “little kids” who drink Prime are “really getting hurt[.]” Defendant publicly stated that the “horrible chemicals” in Prime hydration drinks are “gonna kill your guys’s brains,” “mess up your guys’s livers,” and “hurt you big time.”

54. Defendant also has made false statements about Prime’s founders and personnel. He claims that Prime’s team operates a “human trafficking” ring and has an “agenda” to “poison children.” He has stated that Prime’s team has “tied [children] up,” “raped” children, and “burned them.” Defendant further has claimed that Prime’s team are “devil worshipers” who “work” with Satan.

55. Defendant’s statements about Prime’s products and team are verifiably false. Prime does not contain ostarine, cyanide, or any other poison. Prime does not cause seizures in children, does not put children in danger, does not kill people’s brains, and does not hurt people’s livers. Prime’s team are not devil worshipers. They do not work with Satan. Prime is not operating a human trafficking ring and has no agenda to poison children. Nor does Prime’s team tie children up, rape children, or burn them.

56. Defendant knows that his statements are false and does not care. Defendant does not provide any basis for these claims in any of his public statements. Any reasonable investigation by Defendant would show that there is no basis to any of his claims. Prime’s hydration drink ingredients are listed on its products. Its products can be tested as well. These ingredients include coconut water, electrolytes, antioxidants, B Vitamins, and other beneficial ingredients. Defendant’s statements about Prime’s team are also verifiably false, as there is no basis for any of the claims about their purported intentions or conduct towards children, religious worship, or otherwise.

57. Despite his knowledge that his statements about Prime are false, Defendant continues to insist that his statements are true. He has stated “I’ve only said true things” with respect to Prime, and “It’s the truth” when conducting his defamatory, deceptive, and misleading rants about Prime. He has claimed to have “proof” that he will present to “Congress” about his statements, despite their patent falsehood.⁵¹

58. When Prime requested that Defendant stop his defamatory statements and retract them, Defendant ignored the request. He instead continued to make false statements about Prime and its hydration product including that it contained the performance enhancing drug ostarine. Defendant has stated that he “will not let this die down” and “if I have to talk about it every day, I will.” Defendant is aware that his statements are actionable defamation, defiantly espousing: “Can they sue me? Yes. Do I care? No.” He continues to make defamatory statements regardless.

59. The context of Defendant’s statements clearly evidence that he is intentionally making statements, with the knowledge that they are false, while insisting they are true, to defame Prime and its products.

60. Defendant is defaming Prime out of malice and with reckless disregard to the truth or falsity of his statements. He has admitted online that part of the reason he is making these statements is because he “used to” but no longer “like[s]” the Prime team, and that he originally “thought they were cool” but now no longer “care[s] about [Prime].”

61. Defendant’s conduct has and continues to cause Prime harm in the form of damage to the goodwill that consumers have for its brand, reputational harm, lost sales from consumers who believe Garcia’s statements are true, and costs for Prime to enforce its rights.

⁵¹ <https://youtu.be/KANbgQVVH08?si=V3piZBoFoFDZ8odi>.

62. On information and belief, Defendant will continue defaming Prime and its products unless and until he is enjoined by this Court.

COUNT II: TRADE LIBEL AND BUSINESS DISPARAGEMENT

63. Prime incorporates by reference as though fully set forth herein the allegations of all the foregoing paragraphs.

64. Defendant's statements about Prime's business, as referenced above, constitute disparaging false statements. Defendant's claims about Prime hydration product's containing poison, its harmful effect on children, danger to people's brains and livers, and other claims referenced in this Complaint are verifiably false.

65. Defendant has espoused and published his statements with malice, based on his admitted intent to harm Prime and its business as well as his admitted reckless disregard for the truth or falsity of his statements. Defendant's malice is demonstrated, among other things, by his statement that he is going out on a "limb" by making these statements and his admission that he expects to be sued for making the statements.

66. Defendant has and continues to make his statements with the intent to cause pecuniary loss and has a recognition that his statements will in fact do so. Defendant is aware that he has a powerful online platform with over 20 million followers. He has stated that he does not care about the negative effect of his statements on Prime's business, and also has acknowledged that his statements have devalued Prime's business – as he intended.

67. Defendant's statements have, in fact, caused pecuniary loss to Prime's business. Prime's growth and sales are a direct correlation of its reputation in the market for great tasting and functional products and the goodwill which it has painstakingly developed with consumers. Defendant's statements to his over 20 million followers, and the many millions who hear of these

statements after they are amplified through the media, have hurt Prime's sales and damaged the value of its business.

COUNT III: VIOLATION OF 15 U.S.C. § 1125, §43(a) (LANHAM ACT)

68. Prime incorporates by reference as though fully set forth herein the allegations of all the foregoing paragraphs.

69. Defendant has made and distributed, in interstate commerce and in this District, false statements and advertisements promoting his own personal brand and fights that contain false or misleading statements of fact regarding Prime and its products.

70. Prime's products are distributed in interstate commerce, as it is sold nationwide throughout the United States and internationally around the world.

71. On information and belief, Defendant's statements have actually deceived, or have a tendency to deceive, a substantial segment of Prime's customers and/or potential customers. The deception is material because it is likely to influence the purchasing decisions of Prime's customers.

72. Defendant's false and misleading statements and omissions violate the Lanham Act, § 43(a), 15 U.S.C. § 1125(a).

73. Defendant's false and misleading statements and omissions have injured, and are likely to further injure, Prime and its business. Defendant's false and misleading statements and omissions damage Prime's reputation, harm the goodwill it has developed for its brand with consumers, negatively impact its sales, and negatively impact the enterprise value of its business.

74. Defendant has and will continue to cause immediate and irreparable injury to Prime, including injury to its business, reputation, and goodwill, for which there is no adequate remedy at law. Prime consequently is entitled to an injunction under 15 U.S.C. § 1116 restraining Defendant, his agents, employees, representatives, and all persons acting in concert with him from

engaging in further acts of false advertising and ordering removal of all Defendant's false advertisements.

75. Prime is entitled to recover from Defendant the damages it has sustained as a result of Defendant's acts in violation of the Lanham Act § 43(a), pursuant to 15 U.S.C. § 1117. Prime will prove the full extent of the monetary damages it has suffered by reason of Defendant's acts through this action.

76. Prime is further entitled to recover from Defendant the gains, profits, and advantages that Defendant has obtained as a result of his use of the PRIME brand in his false and misleading statements and omissions. Prime will prove the full extent of Defendant's gains, profits, and advantages through this action.

77. On information and belief, Defendant's actions are willful and done with the intention of causing confusion, mistake, or deception. Accordingly, this is an exceptional case entitling Prime to recover the costs of this action, including its reasonable attorneys' fees, pursuant to 15 U.S.C. § 1117.

COUNT IV: COMMON LAW UNFAIR COMPETITION

78. Prime incorporates by reference as though fully set forth herein the allegations of all the foregoing paragraphs.

79. Defendant has made and distributed, in interstate commerce and in this District, statements that contain false or misleading statements of fact regarding Prime and its products.

80. Prime's products are sold within the State of Texas, and Defendant's statements were made from Texas and reached, on information and belief, Texas consumers.

81. Defendant has and continues to commit unlawful acts, as pleaded above, including but not limited to violations of the Lanham Act. Defendant has committed these unlawful acts

maliciously and with the specific intent, by Defendant's own statements, to interfere with Prime's ability to conduct its business.

82. Defendant has and will continue to cause immediate and irreparable injury to Prime, including injury to its business, reputation, and goodwill, for which there is no adequate remedy at law. Prime consequently is entitled to an injunction restraining Defendant, his agents, employees, representatives, and all persons acting in concert with him from engaging in further acts of unfair competition and ordering removal of all Defendant's false statements.

83. Prime is entitled to recover from Defendant the damages it has sustained as a result of Defendant's acts constituting unfair competition. Prime will prove the full extent of the monetary damages it has suffered by reason of Defendant's acts through this action.

COUNT V: UNJUST ENRICHMENT

84. Prime incorporates by reference as though fully set forth herein the allegations of all the foregoing paragraphs.

85. On information and belief, Defendant is knowingly and maliciously making defamatory statements, which are false and therefore fraudulent, about Prime and its products to boost his own notoriety.

86. Defendant is attempting to generate controversy through his purported revelations about Prime and its products to boost engagement with his online social media channels and monetize his personal brand.

87. Defendant is further defaming Prime with false and fraudulent statements, on information and belief, to promote himself and his fights.

88. Defendant's conduct is unjust, unfair, and inequitable, resulting in his own enrichment and monetary gain at the expense of Prime.

89. Defendant has and will continue to cause immediate and irreparable injury to Prime, including injury to its business, reputation, and goodwill, for which there is no adequate remedy at law. Prime consequently is entitled to an injunction restraining Defendant, his agents, employees, representatives, and all persons acting in concert with him from engaging in further acts of unjust enrichment and ordering removal of all Defendant's false statements.

90. Prime is further entitled to any profits, value, or other monetary gain that Defendant has received through the unjust enrichment he has and continues to gain from his unlawful and knowingly false statements about Prime.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of a judgment in its favor and against Defendant as follows:

- A. For compensatory, incidental, and consequential damages, in an amount to be determined, for harms Prime has and continues to suffer by Defendant's unlawful conduct, including harm to Prime's reputation and goodwill as well negative impact on Prime's sales and business value;
- B. For punitive, exemplary, and any other damages authorized by law;
- C. For Prime's attorneys' fees according to proof, and costs incurred, to the extent permitted by law;
- D. For the entry of a preliminary and permanent injunction against Defendant and all persons acting in concert with him, enjoining Defendant from making false statements regarding Prime, its products and/or its personnel;
- E. For entry of a preliminary and permanent injunction requiring Defendant to remove the defamatory and unlawful statements he has already made and issue a correction regarding same;

- F. For pre-judgment and post-judgment interest on the full amount of damages; and
- G. For such other relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable by jury.

Dated: May 22, 2024

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By: /s/Herbert H. Finn

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